



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

3/23

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GOVERNOR

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Committee on Environment and Natural Resources
c/o Legislative Information
100 State House Station
Augusta, ME 04333

Dear Senator Saviello, Representative Hamper and members of the Committee,

The following is a list of amendments the Department would like to introduce during work session for the Committee's consideration.

§490-EEE. Mining permit; application procedure

2. Application procedure. An application for a mining permit shall be submitted to the department in a format to be developed by the department. The application shall include all of the following:

A. Fee.

- i. The ~~permit application~~ fees established in Title 38, section 352.
- ii. ~~The department shall forward the annual license fee received under that section to the state treasurer for deposit in the Fund.~~

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G. Insurance. A true and original policy of insurance issued by an insurance company authorized to do business in this state covering all mining and closure operations and affording personal injury protection in an amount not less than \$1,000,000 and property damage, including blasting damage, protection of not less than \$2,000,000

§490-HHH. Financial assurance

1. Duration of financial assurance. An operator shall maintain financial assurance during mining operations until the department determines that all reclamation has been completed and for a postclosure monitoring period as determined under section 490-GGG(4) and (5), except that financial assurance shall be released immediately upon termination of a mining permit under section 490-FFF(2)(A).

2. Coverage of financial assurance. The financial assurance required under subsection (1) shall apply to all mining and reclamation operations subject to the mining permit and be sufficient to cover the cost to administer, and to hire a third party to implement, activities necessary for investigation, monitoring, closure, treatment, remediation, and reclamation under the Environmental Protection, Reclamation and Closure Plan ~~mining, reclamation, and environmental protection plan~~ as well as necessary environmental protection measures, including remediation of any contamination of the air, surface water, or groundwater ~~that is in violation of the mining permit.~~

3. Form of financial assurance. The financial assurance ~~shall~~ may consist of a surety bond, escrow, cash, certificate of deposit, irrevocable letter of credit, or other equivalent security, or any combination thereof.

4. Updates to financial assurance. A permittee shall provide an annual statement of financial responsibility and ~~the department may order that the~~ shall adjust the bond, escrow, cash, certificate of deposit, irrevocable letter of credit, or other security, as applicable, be adjusted to assure that the financial assurance is sufficient for the purposes of subsection (2).

5. Failure to provide financial assurance. Failure to provide financial assurance under this section constitutes grounds for the department to order immediate suspension of activities at a mining operation, including the removal of metallic product from the site, pursuant to section 490-JJJ.

36 MRSA §2866, is amended to read:

§2866. Mining Oversight Corrective Action Fund

1. Creation of fund. The Mining Oversight Corrective Action Fund, referred to in this section as the "fund," is established as a nonlapsing fund administered by the Mining Excise Tax Trust Fund Board of Trustees, referred to in this section as the "board." The board shall oversee and authorize expenditures from the fund.

4. Uses of fund. Money from the fund may be used only to fund oversight corrective action as defined in the mining rules adopted by the Department of Environmental Protection ~~and the Maine Land Use Regulation Commission, and expenses for site oversight.~~ Oversight Corrective action includes, but is not limited to, remedial action related to: any and all expenses of the department or the department's agents or contractors related to site oversight, including costs of personnel and administrative costs and expenses necessary to administer, review and monitor corrective action.

~~A. Contaminated ground water;~~

~~B. Disposition of mining wastes;~~

~~C. Reclamation defects on or surrounding the site; and~~

~~D. Pollution control at the site.~~

38 MRSA §352, subsection 3, is amended to read:

3. Maximum fee. The commissioner shall set the actual fees and shall publish a schedule of all fees by November 1st of each year. If the commissioner determines that a particular application, by virtue of its size, uniqueness, complexity or other relevant factors, is likely to require significantly more costs than those listed on Table I, the commissioner may designate that application as subject to special fees. Such a designation must be made at, or prior to, the time the application is accepted as complete and may not be based solely on the likelihood of extensive public controversy. The maximum fee for processing an application may not exceed \$250,000, except that the maximum fee for processing an application under chapter 3, subchapter 1, article 9 may not exceed 300,000 \$1,000,000. All staff of the department, the Department of Inland Fisheries and Wildlife, the Department of Conservation, the Department of Agriculture, Food and Rural Resources and the Department of Marine Resources who have worked on the review of the application, including, but not limited to, preapplication consultations, shall submit quarterly reports to the commissioner detailing the time spent on the application and all expenses attributable to the application, including the costs of any appeals filed by the applicant and, after taking into consideration the interest of fairness and equity, any other appeals if the

commissioner finds it in the public interest to do so. Any appeal filed by the applicant of an application fee must be to the agency of jurisdiction of the application. The costs associated with assistance to the board on an appeal before the board may be separately charged. The processing fee for that application must be the actual cost to the department, the Department of Inland Fisheries and Wildlife, the Department of Conservation, the Department of Agriculture, Food and Rural Resources and the Department of Marine Resources. The processing fee must be distributed to each department that incurs a cost to be deposited in the account in which the expenses were incurred in that department to reimburse the actual cost to that department. The applicant must be billed quarterly and all fees paid prior to receipt of the permit. Nothing in this section limits the commissioner's authority to enter into an agreement with an applicant for payment of costs in excess of the maximum fee established in this subsection.

38 MRSA §352, subsection 34-A, is amended to read:

~~4-A. Maximum fees Fees for nonferrous metal mining. Notwithstanding the fees for mining established in subsections 4 and 5,~~ The maximum fees Fees for nonferrous metal mining shall include the following are as follows:

- A. The preapplication and processing fees are special fees, pursuant to subsection 3. ~~The preapplication fee is \$20,000 until the one-time allocation made pursuant to section 1319-E, subsection 1, paragraph F, has been repaid. Thereafter the preapplication fee is \$10,000;~~
- B. ~~The processing fee is \$30,000;~~ and
- C. ~~The annual license fee is \$10,000~~ \$50,000.

38 MRSA §353, subsection 2, is amended to read:

2. Processing fee. Except for annual air emission fees pursuant to section 353-A and annual waste discharge fees pursuant to section 353-B, a processing fee must be paid at the time of filing the application. Failure to pay the processing fee at the time of filing the application results in the application being returned to the applicant. One-half the processing fee assessed in section 352, subsection 5-A for licenses issued for a 10-year term must be paid at the time of filing the application. The remaining 1/2 of the processing fee for licenses issued for a 10-year term must be paid 5 years after issuance of the license. The commissioner may not refund the processing fee if the application is denied by the board or the commissioner. If the application is withdrawn by the applicant within 30 days of the start of processing, ~~the processing fee must be refunded, except in the case of nonferrous metal mining applications. If an application for nonferrous metal mining is withdrawn by the applicant within 30 days of the date of filing, 1/2 of the application fee must be refunded.~~ the portion of the processing fee that was expended or committed by the department, the department's agents or contractors for the cost of processing the application, prior to the withdrawal of the application, shall be calculated, and the remainder of the processing fee not expended or committed must be refunded.